

# Staff Summary Report



To: Mayor and City Council  
Through: City Manager

Agenda Item Number 34  
Meeting Date: 08/08/02

**SUBJECT: FREEDOM NIGHT CLUB #SIP-2002.43**

**PREPARED BY:** Hector Tapia, Senior Planner (480-350-8331)

**REVIEWED BY:** Steve Venker, Planning & Zoning Manager (480-350-8331)

q-j

**BRIEF:** This is the second public hearing for Freedom Night Club for a use permit to allow the lease of the parking lot to Arizona State University for day time parking of employee cars, located at 919 East Apache Blvd.

**COMMENTS:** **PLANNED DEVELOPMENT (0406)** Hold the second public hearing for **FREEDOM NIGHT CLUB** (Pen E. Johnson, partner, property owner) for a use permit to allow the lease of the parking lot to Arizona State University for day time parking of employee cars located at 919 East Apache Boulevard. The following is requested from the City of Tempe:

**#SIP-2002.43.** Site Plan for Freedom Night Club, a bar with live entertainment, located in an existing 10,028 s.f. building with 208 parking spaces available on site, on 2.1 net acres, including the following:

Use Permit

Allow the lease of the parking lot to Arizona State University for daytime use only in the C-2 Zoning District.

**Document Name:** 20020808devsrh11 **Supporting Documents:** Yes

**SUMMARY:** Arizona State University (ASU) has under construction a Service building just south of Spence Avenue and east of Rural Road. This location is south of the Freedom Night Club parking lot. ASU contacted the night club property owners regarding the lease of the under utilized parking lot during the day time. The night club property owner has accepted and is requesting with this application a use permit to allow the parking lot of the Freedom Night Club to be leased to Arizona State University employees for day time use only. ASU will use the parking lot from 5:00 A.M. to 6:00 P.M. and the night club, after that, 6:00 P.M. to 5:00 A.M. The ASU Service building is scheduled for completion on January 2003. The applicant's intention is to lease this parking lot for a one-year term beginning January 1, 2003, with four one-year extensions. ASU has plans to build a parking structure nearby but it is not under their current construction schedule. Meantime, leasing this parking lot is an immediate solution for ASU. This use permit request modifies the existing approved use permit applied to the Freedom Night Club since condition #2 (#SIP-2001.21, April 12, 2001) states that with any expansion or intensification of the use, the applicant shall come back to City Council for review. Parking in Tempe is a primary concern of many businesses therefore this request should be an appropriate parking management tool in the allocation of parking spaces between two uses operating at different hours of the day. Staff supports this request subject to conditions.

**RECOMMENDATION:** Staff – Approval  
Public - None

- ATTACHMENTS:**
1. List of Attachments
  2. History & Facts / Description / Comments
  3. Conditions of Approval
- 
- A. Location Map
  - B. Letter of Explanation/Intent
  - C. Site Plan
  - D. Aerial Photos

## **HISTORY & FACTS:**

<u>February 1975.</u>	Design Review Board approved the site plan and bldg. elevations for the new Sun Devil Lounge night club building at 919 E. Apache Blvd., which was relocated from the existing Holiday Inn Motel.
<u>July 14, 1975.</u>	Board of Adjustment (under Ord. 405) approved a one year variance to reduce the number of parking stalls needed on-site for the Sun Devil Lounge night club at 919 E. Apache Blvd.
<u>August 25, 1976.</u>	Board of Adjustment (under Ord. 405) denied a request to renew the variance to reduce the number of parking stalls noted above.
<u>February 23, 1977.</u>	Board of Adjustment (under Ord. 808) approved a request to reduce the size of parking stalls for the Sun Devil Lounge nightclub.
<u>April 27, 1983.</u>	Board of Adjustment approved a use permit for Clancey's Night Club to operate a penny arcade as an accessory use to the existing night club, subject to conditions.
<u>February 10, 1994.</u>	The City Council approved a use permit for Phoenix Entertainment Inc/Senior Phroggs to operate a nightclub with entertainment (dancing) subject to ten conditions.
<u>November 22, 1996.</u>	The City Council approved a use permit for Network One Entertainment LLC/Club Eclipse operate a nightclub with entertainment (dancing) subject to ten conditions.
<u>March 12, 1998.</u>	The City Council approved a use permit for Club Pompeii to operate a nightclub with entertainment (dancing) subject to eight conditions.
<u>September 25, 1998.</u>	The City Council approved a patio expansion for Club Pompeii subject to conditions.
<u>June 8, 2000.</u>	The City Council approved a use permit for a transfer of ownership and a time limit extension.
<u>April 12, 2001.</u>	City Council approved the request for Freedom Night Club for a transfer of ownership, including live entertainment. Applicant signed the updated Police Security Plan.
<u>August 1, 2002.</u>	City Council held the first public hearing for a use permit for the Freedom Night Club to allow the lease of the parking lot to Arizona State University for daytime use only.

**DESCRIPTION:** Owner – Pen Johnson  
Applicant – Pen Johnson  
Existing zoning – C-2  
Total site area – 2.1 net acres  
Total bldg. area – 10,028 s.f.  
Parking required – 202 spaces  
Total Parking provided – 208 spaces

**COMMENTS:** Arizona State University (ASU) has under construction a Service building just south of Spence Avenue and east of Rural Road. This location is south of the Freedom Night Club parking lot located at 919 East Apache Boulevard.

ASU contacted the night club property owners regarding the lease of the under utilized parking lot during the day time. The night club property owner has accepted and is requesting with this application a use permit to allow the parking lot of the Freedom Night Club to be leased to Arizona State University employees for day time use only. ASU will use the parking lot from 7:00 A.M. to 5:00 P.M. and the nightclub, after that, 5:00 P.M. to 7:00 A.M.

The ASU Service building is scheduled for completion on January 2003. The applicant's intention is to lease this parking lot for a one-year term beginning January 1, 2003, with four one-year extensions. ASU has plans to build a parking structure nearby but it is not under their current construction schedule.

Meantime, leasing this parking lot is an immediate solution for ASU. This use permit request modifies the existing approved use permit applied to the Freedom Night Club since condition #2 (#SIP-2001.21, April 12, 2001) states that with any expansion or intensification of the use, the applicant shall come back to City Council for review.

Parking in Tempe is a primary concern of many businesses therefore this request should be an appropriate parking management tool in the allocation of parking spaces between a night time business (Freedom Night Club) and day time office employees from ASU. Staff supports this request subject to conditions.

**REASON(S) FOR  
APPROVAL:**

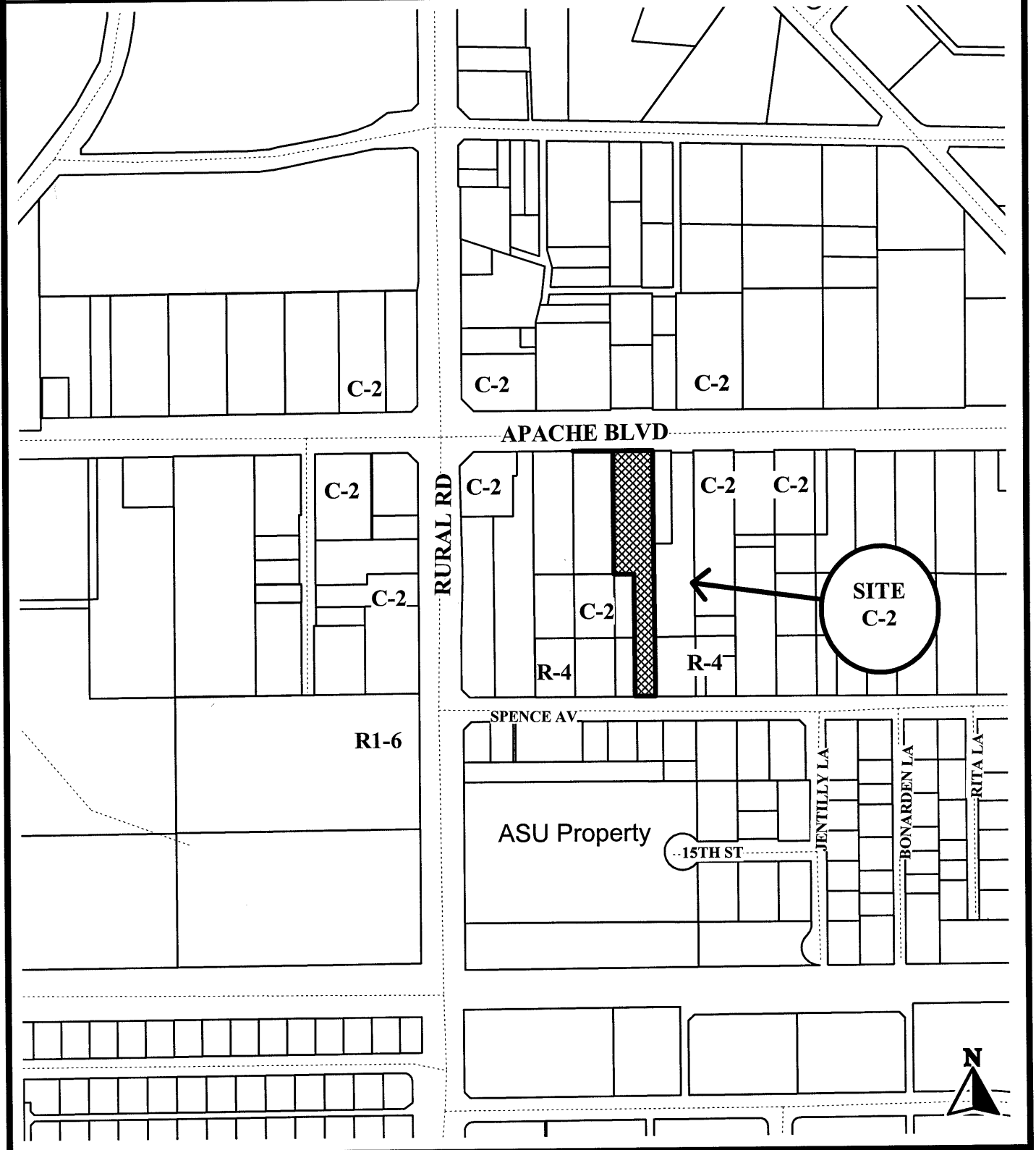
1. The proposed use permit appears not detrimental to adjacent property owners or to the surrounding neighborhood. The proposed parking solution appears to be an effective way of using a vacant parking lot during the daytime.

**CONDITION(S)  
OF APPROVAL:**

1. The use permit is non-transferable and is issued to the current owners of Freedom Night Club only.
2. The applicant shall return to the City Council, **on or before August 8, 2004**, for a review of the conditions of approval.
3. Any intensification or expansion of the use shall require the applicant to return to the City Council for further review.
4. Any significant verifiable police complaints (as determined by the City Attorney and Police Department) shall require the applicant to return to the City Council for re-evaluation of the use permit.
5. The applicant shall resolve all lighting and/or security details with the Police Department (CPTED) prior to the use permit becoming effective.

**FREEDOM NIGHT CLUB**

**SIP-2002.43**



**Request**

**A**

**919 East Apache, Inc.**  
**333 East Fifteenth Street**  
**Tempe, Arizona 85281**  
**480-967-4185**  
**Fax 480-967-8579**  
[Penjohnson@juno.com](mailto:Penjohnson@juno.com)

May 18, 2002

Development Services Department  
City of Tempe

Re: Application for Use Permit modification

Ladies and Gentlemen:

We are the owners of the property located at 919 East Apache Boulevard in Tempe. The property is currently leased and is operated as the Freedom nightclub.

Arizona State University is constructing a Services building on Rural Road south of Spence. The schedule calls for this building to be completed in January 2003. We understand that on site parking will be for visitors and handicapped only. Plans call for over 300 people to work out of this building.

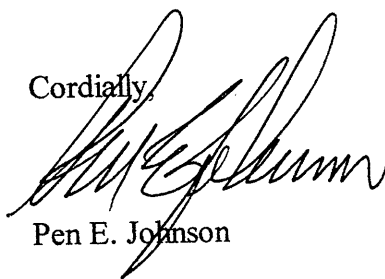
We are working with the University to lease them our parking lot for use during the daytime when it is not being used by the nightclub.

We believe that this arrangement will be of major benefit to both the employees working in the new building as well as to the neighborhood.

The University is studying plans to construct a parking structure for use by these employees and others. We understand that implementation could be several years in the future. The proposed lease will be for a one year term beginning January 1, 2003 with four one-year extensions. The University will be responsible for security during its hours of use.

We therefore request that the use permit for this site be modified to permit this extended use.

Cordially,



Pen E. Johnson

**B**

Tapia, Hector

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From: penjohnson@juno.com  
Sent: Monday, June 17, 2002 5:02 PM  
To: Hector\_Tapia@tempe.gov  
Subject: Re: Freedom Night Club Parking Lot

Mr. Tapia,

Here are the answers to your questions:

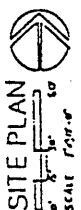
1. The proposed agreement calls for ASU employees to be able to use the lot from 5 a.m. until 6 p.m. Monday through Friday
2. We have agreed to reserve 8 parking spaces closest to the building for deliveries and necessary staff daytime parking..
- 3.. The University will be able to use the remaining 200 spaces of the total 208 available.

Thank you for your assistance in this matter

Pen E. Johnson

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MONTH END, 1987, AND 1988. AS FULLY FINISHED  
FROM 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2



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FREEDOM NIGHT CLUB

APACHE BLVD

RURAL RD

SPENCE AVE

D

NORTH →

RURAL RD

ASU

FREEDOM

NIGHT CLUB

D1

